

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JULY 9, 1998

Chairperson McLaughlin called the meeting to order at 1:30 p.m. at the DoubleTree Inn, Spokane, Washington.

MEMBERS PRESENT: LIZ McLAUGHLIN, Chair; MARSHALL FORREST, Vice Chair; EDWARD HEAVEY; CURTIS LUDWIG, and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE and SENATOR RAY SCHOW

OTHERS PRESENT: BEN BISHOP, Executive Director; SHERRI WINSLOW, Deputy Director of Operations; DERRY FRIES, Division Director, Special Operations; AMY PATJENS, Public Affairs Manager; JACKI FISCHER, Program Manager, Financial Investigations Unit; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Commissioner Ludwig moved to approve new licenses, changes, withdrawals, and tribal certifications; **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

REVIEW OF FRIDAY'S AGENDA

Ms. Patjens announced that on tomorrow's agenda there would be three rules packages that are up for final action as well the petition by the Washington Gaming Consultants and one of the rules packages includes seven rules involving Gambling Service Suppliers as well as pull tab service businesses. Seven are pull tab rules of a housekeeping nature and some other substantive rules, and five rules that are related to nonprofit licensing requirements. There are also up for discussion three bingo rules that were filed after last month's meeting. Lastly, there are two rules up for discussion and possible filing. One deals with the sale of bingo paper on credit and the second rule defines where a bingo game is considered to be conducted. There are two staff reports. There will be an initial review of the budget for the next biennium and an initial review of some legislation that the staff will be proposing in the 1999 legislative session. Both of the items for legislation as well as the budget will be before the commissioners next month for a final vote.

CLASS III FINANCIER REVIEW

NORTH AMERICAN SPORTS MANAGEMENT, INC., Maitland, Florida

Ms. Fischer said that North American Sports Management, Inc., (NORAM) has applied for certification as a financier for the Yakima Tribal Casino was to provide up to \$9 million for the construction of their facility. On July 14, 1997 NORAM entered into a profit participation agreement with Hollywood Park Inc. It was determined that, in order to most efficiently finance the facility and provide the consulting services, they would relinquish their right to Hollywood Park, Inc. all rights under the Memorandum of Understanding. In return, NORAM will receive a refund in the amount advanced to the Tribe for pre-development costs. In August of 1997, Hollywood Park, Inc. entered an agreement with the Confederated Tribes and Bands of the Yakama Indian Nation. Hollywood Park, Inc. received full Class III certification during the February 1998 Commission meeting. Because NORAM will be receiving a percentage of profit from the Yakima Tribal Nation Casino, it was determined that the company must

supply for certification.

Ms. Fischer said the Financial Investigations Unit began its investigation on February 2, 1998, in Florida. The procedures performed included analysis of the corporate financial statements and federal tax returns, along with their company check registers and other financial documents. Personal and criminal history background checks were completed on officers and their spouses. The company's chief executive officer and chairman of the board is Alan Ginsburg, and Michael Sawruk is the company's president. NORAM is currently pursuing other tribal involvement in California, Kansas, Michigan, and Florida. However, NORAM does not hold nor have they applied for certification, licenses, or permits in any other state.

Ms. Fischer said that, at the conclusion of their investigation, Commission agents discussed the certification process and the rules set forth in the compact in the state of Washington and the Yakima Indian Nation. Based on this investigation, the staff recommends certification of North American Sports Management as Class III financiers.

Chairperson McLaughlin asked if anyone was here to represent NORAM; no representatives were present.

Director Bishop asked if there was any other involvement through NORAM or any connection between NORAM and Hollywood Park. **Ms. Fischer** said that there were some discussions between NORAM and Hollywood Park, and Hollywood Park indicated that they could get the money faster and build the facility faster, so in exchange for financing for the tribe, NORAM and Hollywood Park agreed that they would get a percentage of the profits from that facility. **Director Bishop** said that his question was relationship – was this agreement the only relationship that they had? **Ms. Fischer** said that was correct.

Commissioner Forrest asked, if Hollywood Park gets no interest in the profit, how do they get their money back? **Ms. Fischer** said Hollywood Park has a separate agreement with the Tribe. NORAM originally funded some part of that casino – all the money that they funded was returned to them and they will receive a percentage of the percentage of the receipts. She thinks that the agreement is NORAM would receive 22 percent of 6.6 percent of Hollywood Park receives from the Tribe. **Commissioner Forrest** asked what the percentage Hollywood Park would get. **Ms. Fischer** said she was not sure exactly how much Hollywood Park gets, but NORAM would receive about 6 percent of the net proceeds from that casino for a period of time.

Chairperson McLaughlin asked if there was a time limit on it. **Ms. Fischer** said there was a time limit agreement between NORAM and Hollywood Park and there's a time limit between Hollywood Park and the Tribe as far as a consulting agreement, but she was unsure what that time limit was.

Commissioner Ludwig wondered why they had not investigated the financial ownership of Hollywood Park. **Ms. Fischer** said they had done that and that company had received certification in February.

Commissioner Forrest moved that the Commission accept North American Sports Management, Inc., as a Class III Commissioner Herbold seconded the motion.

Vote taken; motion carried with five aye votes.

QUALIFICATION REVIEWS

ROTARY CLUB OF COLUMBIA CENTER, Kennewick

Ms. Fischer said this organization was formed in 1985 and has been licensed since 1989. The Club provided financial assistance to many community service programs in the Tri Cities, such as Poster Kids and the Tri-Tech Skill Center. The organization also provided scholarships to eight students. The Club's largest donation was the funding and sponsorship of a soccer field, which was part of a new soccer complex being constructed by the Tri Cities Youth Foundation. For the fiscal year ended June 30, 1997, the organization met its required combined net return percentage of 8 percent for its Class "H" bingo license by achieving a 14.6 percent net return. The organization did not meet the minimum requirement of spending at least 60 percent of their gambling proceeds to provide program services. In 1994, this organization was granted an exemption of this requirement so they could

reserve funds to build the new facility and they moved into their new facility in February of 1997. The exemption expired on June 30, 1997. The organization did meet requirements for holding any exemption by spending out at least 25 percent of their net gambling proceeds toward program services. The staff recommends that the organization be approved as a charitable organization and authorized to conduct gambling in the state of Washington.

Commissioner Herbold said their new facility opened in February of '97, more than a year ago. She asked if it was long enough now and should they know if they are meeting the 60 percent requirement on program services.

Ms. Fischer said that the 60 percent required is calculated on annual basis and so they would have one whole year to do that. **Commissioner Herbold** said that they have had a year since February 1997 and they have also had a year since the end of the fiscal year, June '97 to June '98. **Ms. Fischer** said they do not discuss that with the organization and they will not receive their financial statements until 120 days after the end of their fiscal year, so she could not tell the Commission that right now. She said she could get that information for her later.

Commissioner Herbold said she just wondered if in Ms. Fischer's communication with the organization in light of the upcoming qualification review whether there had been a discussion as to whether they are meeting the requirement now. **Ms. Fischer** said she was not sure if the agents had discussed that with them or not.

Commissioner Herbold said that response led to her next question, which was that since their fiscal year ended June of '97 and Commissioner Herbold knew that the staff tried to schedule these to correspond with the Commission meetings so they don't have to do a lot of traveling. If a qualification review that is not likely to raise any red flags, was there any reason why staff waited so long to do some of these. She pointed out that Ms. Fischer said that it took 120 days after the end of the fiscal year, but this year the group met here the end of '97 over a year ago. She wondered if there was any reason why this could not have been done six months ago, or two months ago, rather than waiting more than a year. **Ms. Fischer** said that, based on past comments from the Commission, it was very important that the organizations had an opportunity to attend a meeting and make it as close as they possibly can. She said the rules were written in such a way that the information is due 120 days after the end of their fiscal year. She said their Unit tries to schedule those based on priorities being where the organization is located and where the Commission meetings are and where they are located. She said that in this particular case, it was the closest they could get to make it possible for them to attend if they wanted to.

Commissioner Herbold asked if they had recently enacted a rule or if it were still under discussion to enact a rule that says that unless the director advises the organization, they don't have to be present. It seemed to her that in many of those cases, especially the more straightforward ones, that they can do this qualifications review even outside their area if there aren't lots of problems. **Ms. Fischer** she appreciated that and that was one of the reasons that was given for that rule to be approved.

Commissioner Herbold asked Ms. Fischer to explain about the "Adopt a Disk" program. **Ms. Fischer** it's a computer program for education and the company or the nonprofit organization goes out and tries to get money to buy computers for schools.

Chairperson McLaughlin asked if there were any more questions. There were none so she asked if there was a representative from this organization present who would like to speak. No one came forward.

Commissioner Ludwig moved to approve the Rotary Club of Columbia Center as a charitable organization authorized to conduct gambling activities in the state of Washington. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

SPOKANE ATHLETIC ROUNDTABLE

Ms. Fischer said the organization had been licensed since 1982 and has 16 active members who also serve as board members for the organization. They provided civic and charitable services through cash contributions to sports programs for underprivileged and handicapped children in addition to other various athletic nonprofit charitable organizations. The organization met its required combined net return percentage of 12 percent for its Class "J" license by achieving a 12.4 percent net return. The organization's year-to-date net return as of March 31, 1998, was 13.7 percent. The staff recommends the organization be approved as an athletic organization and authorized to conduct gambling in the state of Washington.

Commissioner Herbold asked questions about how the net return figures are calculated. She referred to the fact that the Rotary Club did not meet their 60 percent requirement, and so if they looked at the program services, there are two pieces of it – one's direct and one's indirect. If they are added together, they are well over 60 percent. In looking at Spokane Athletic Roundtable compared to the Rotary Club, it seems the numbers are coming out differently. She suggested that she and Ms. Fischer discuss it later because the numbers were not making sense to her. **Director Bishop** said he was becoming confused, too, and he said he wrote the rules. **Ms. Fischer** said that as far as their staff was concerned Spokane Athletic Roundtable was not in violation of any part of that rule.

Chairperson McLaughlin asked if there was anyone from Spokane Athletic Roundtable wanted to speak.

Larry Gufstason, Executive Director, said last year was their best year because they had been out of compliance since he had worked at the organization. He said, in round numbers, they gave away about \$166,000 last year in their golf program. He introduced the others present from the organization: Larry Smith, President; Toni Capato, General Manager; and Vernon Gray, the in-house accountant.

Commissioner Ludwig moved to approve the Spokane Athletic Roundtable as an athletic organization authorized to conduct gambling activities in the state of Washington. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

SPOKANE VALLEY FOUNDATION

Ms. Fischer said this organization provides transportation, housing and services to the elderly and to the mentally and physically challenged in Spokane County. The foundation's Meals on Wheels program served over 97,000 meals, and the personal assistance transportation system helped more than 8,400 people get to and from doctor's offices, meal sites, and other necessary appointments. For the fiscal year ended June 30, 1997, Spokane Valley Foundation met its required combined net return percentage of 10 percent for its Class "I" bingo license by achieving a 12.8 percent net return. The organization did not spend the required 60 percent of gambling proceeds for providing program services, but they did spend 59 percent of net gambling income in that area. This occurred due to a large unexpected increase in gambling revenue toward the end of their fiscal year due to a growing Power Ball jackpot, which awarded in late 1997. The organization expects revenues to return to normal level for the 1998 fiscal year. Since the organization was within 1 percent of significant progress and the increase in revenues at year-end was unanticipated and not expected to occur in the future, the staff recommends Spokane Valley Foundation be approved as a charitable organization and authorized to conduct gambling in the state of Washington.

Commissioner Herbold said this is another one where she has the same question, which she did not want to belabor because her questions could be discussed later.

Chairperson McLaughlin asked if there was anyone from the organization who wished to speak.

Norm Majer, president, introduced Jean Turner, operations manager, and Jill Harrington, manager. He said the organization has been running the same for the last few years and that is in the number of people they transport and the number of meals they transport. He said that in the Spokane Valley there is essentially no public transportation because they only go up and down two streets, so it makes it difficult for the people out there. In the past year his organization transported 8,247 people to and from places including the beauty parlor, the store, and so on. Groceries are carried up to second-story homes because most of them are elderly ladies. The Meals on Wheels program is fairly constant – about 58 to 60 thousand a year. They deliver meals five days a week. They built a shed, which contained two large freezers for keeping the frozen food.

Commissioner Ludwig congratulated and thanked him for the tremendous good work that his people do.

Commissioner Ludwig moved to approve the Spokane Valley Foundation as a charitable organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

BIG BROTHERS AND BIG SISTERS OF SPOKANE COUNTY

Ms. Fischer said this organization formed in 1965 to provide guidance, aid and companionship to children from single parent homes. The organization has 693 active members and is governed by a board of 28 people. The organization provides adult role models for children ages 7-14 from single parent homes. During 1997, 548 adults contacted the organization seeking information on how to become a big brother or big sister. The organization successfully conducted its recruitment challenge campaign, which is an effort designed to increase the number of volunteers and reduce the amount of time that a child remains on a waiting list to receive a big brother or a big sister. This recruitment effort secured 39 volunteers this year. Additionally, the organization staffed and conducted 10 group outings that involved not only current program participants but also potential little brother and sisters in their family.

Ms. Fischer said the organization's school-based mentoring program matched 42 high school students, serving as reading tutors, with at-risk elementary students for one semester. The mentoring program continues into its third year of operation. For the fiscal year ended December 31, 1997, the organization did not meet the required net return percentage of 15 percent of a holder of a Class "M" bingo license. The organization's net return was 15 percent. The Director granted a variance, which allows them to continue to operate at the Class "M" bingo license level. The organization's year-to-date combined net return as of March 31, 1998, was 16.1 percent. Staff recommends that Big Brothers and Big Sisters of Spokane County be approved as a charitable organization and authorized to conduct gambling in the state of Washington.

Commissioner Herbold had a question regarding the last page, there are some related party transactions set forth. She wondered if those expenses would fall under "Other Expenses". **Ms. Fischer** said it would depend on what the expenses related to. She said the advertising may be somewhere in the bingo area. **Commissioner Herbold** asked what process is followed when the agency deals with a board member and the company that they are affiliated with the advertisers in some way. She wanted to know there were competitive bidding; what kind of steps were taken to make sure there's not an appearance of conflict. **Ms. Fischer** said they had some requirements set forth in the rules, but the organization has it's own as well. She said the organization's executive director, Don Kaufman, could tell the commissioners what process they went through as an organization.

Don Kaufman, general manager and director of the Big Brothers and Big Sisters of Spokane, said that none of the related parties sit on their budget and finance committee. They periodically go out and get bids on such things as advertising costs; however, most of those come as a percentage of sale, so if an ad is purchased, the ad company gets a percentage of that sale. They also donate services to the organization and their donated time is usually equal to what they're charging the organization. **Chairperson McLaughlin** thanked him for appearing.

Commissioner Ludwig noted that board members ran Automated Accounts, Inc., which doesn't charge them a fee on NSF checks. He asked if that was pretty much standard in the industry. **Mr. Kaufman** said that was correct and he wanted to point that out because the original statement that he got said that they charged the organization. That was corrected; they charge the checking accounts a fee. **Commissioner Ludwig** pointed out that this board member running his business doesn't give them any better deal than any other company. **Mr. Kaufman** said that was correct and he has done a very good job and he was also a former Big Brother.

Mr. Kaufman introduced the general manager, Bill Spencer. **Commissioner Heavey** asked if he were responsible for both the programs and the bingo. **Mr. Kaufman** said that he was.

Commissioner Forrest moved to approve Big Brothers and Big Sisters of Spokane County as a charitable organization authorized to conduct gambling activities in the state of Washington. **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with five aye votes.*

SPOKANE YOUTH SPORTS ASSOCIATION

Ms. Fischer said this organization had been licensed since 1985 and there were 19 active members. They have a full time executive director, 26 employees and 1,639 volunteers who have worked over 175,000 hours providing program services to over 20,000 people. Spokane Youth Sports Association strives to provide sports programs to the youth of the Spokane area between the ages of 6 and 18. The programs include soccer, softball, baseball, football and golf. The organization also supports an indoor activity center. This year's highlights included working with the Children's Miracle Network to conduct a golf tournament benefiting Spokane youth and hosting a coach effectiveness training seminar that was attended by over 100 coaches from the area.

Ms. Fischer said that for the fiscal year ended October 31, 1997, the organization met its required combined net return percentage of 14 percent as a holder of a Class "K" bingo license by achieving a 16.3 percent net return. The organization's combined year-to date net return as of March 31, 1998, was 18.7 percent. This organization did not ensure that more than 50 percent of gambling proceeds were used to plan program services. The organization spent approximately 53 or 52 percent of their net gambling income toward program services; however, a more detailed analysis indicated that a unique factor exists with this organization and determining compliance. The organization places an inordinate reliance on volunteer support for the administration for the conducting their programs. This fact results in a lower cost to provide those services. Because of the unique circumstance involving volunteer support, the staff's recommendation is to approve this organization and a charitable organization and authorized to conduct gambling activities in the state of Washington.

Commissioner Forrest said he can sympathize with the amount of volunteers, but he didn't understand why that makes any difference in the amount of money that goes into program services. He said it seemed somewhat unrelated to him. It means they have a bigger program for the same amount of money, but as far as the amount of money that goes into program services, why does it make any difference how many volunteers they have. **Ms. Fischer** said there are other organizations that did the same things, but they didn't use volunteers. Their program service level expenses would be higher and therefore they may be more able to comply with this rule. One of the things that they tried to do to judge this was putting into the proposed rule an exception for those organizations that use volunteers. There are similar organizations that use strictly volunteers to provide programs, and their program expenses are relatively low compared to organizations with the same mission that pay people to do those programs. So the dollar amount is lower in program services by using volunteers and not paying people.

Director Bishop said he thought he agreed with what she was saying. He had been asking why there is a difference. He asked if there were additional requirements, that certainly would be the reason for delaying spending money, but there must be a plan at some point to use that because he agreed that programs that use the largest number of volunteers still need to spend that money. **Commissioner Forrest** said it was hard for him to believe that there wouldn't be some good use for that 2 percent. He asked if there were other organizations and if there is a rule that deals with that. **Ms. Fischer** said that was correct – there is a rule on their agenda right now that directed the staff to review those facts and possibly make an exemption if they choose to do that.

Commissioner McLaughlin asked if they would be able to handle that wonderful problem of volunteers by giving them a so-called "anonymous" money that could be charged for their services although they don't get it, but the Commission should be able to figure it out then what they are able to do. **Ms. Fischer** said that's hard to measure because it's difficult to measure the worth of each person.

Chairperson McLaughlin asked if anyone representing the organization wished to speak.

Von Graf, executive director. He said there were other board members and staff present. He introduced their president, past president, bingo committee chairman, in-house accountant, bingo manager, and other board members. **Mr. Graf** said that they were obviously concerned about the 52 percent for their program expenses. He said he was continuing to work with financial investigations staff on this. He said he did not understand how these numbers came about and they are very concerned about it. He said they had always spent as much money as they can on their program services, so they are still looking into that. They had a very good year in bingo last year. **Mr. Graf** said there were a couple of things he wanted to bring up. Last year at the formal review he talked to the Commission regarding a pilot program that they started for the developmentally challenged in the

school district. They did one last year and it went very well and the board decided to continue that program. This year they had almost 340 children attend, from kindergarten all the way up to high school. The kids came to the center and they treated them to lunch and activities.

Mr. Graf said they were having a very good year so far in the bingo game. The past couple of months have been a little slow due to the nice weather and the bingo manager was doing a nice job there. He said they also were anticipating that they may be able to assist children who cannot take advantage of the sports center due to travel problems. They hope to acquire some more land and develop it for more sports fields and they were continuing to help the children of Spokane through a very dedicated board of volunteers who make it all happen.

Commissioner Herbold moved that Spokane Youth Sports Center be approved as a charitable organization authorized conduct gambling activities in the state of Washington. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with five aye votes.*

DEFAULT ORDERS (3)

Paul Clayton Mueller, Spokane
Alan Wayne Eister, Fox Island
Rochelle Adina Brummer, Spokane

Ms. Patjens said there are three default orders and the case summaries can be found in the handout packet. All three of the individuals applied for card room employee licenses; all had similar histories that would prevent them from qualifying for licensure and did not fully disclose criminal histories, which would be another reason that they would not qualify to get licenses. The third individual is currently on probation, which is the reason to deny the application. Director Bishop issued charges denying all three applications; none of the applicants requested a hearing and under the Administrative Procedures Act, if they don't request a hearing, then the Commission can enter a default order. The staff recommendation is to enter the default orders.

Commissioner Ludwig said he had a question regarding the summaries under Tab #1, one of the applicants who was denied had quite a bit of undisclosed criminal history and included in it several times was possession of a cheating device. He said he realized that did not go into that, but he wondered what the cheating device was. **Director Bishop** said that could have been a device to cheat on a slot machine; or it could be loaded dice, marked cards, etc.

Commissioner Heavey moved to accept the staff's recommendation and approve the default orders denying these three applications; **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with five aye votes.*

CARD ROOM CONTRACTS

Director Bishop said he wanted to inform the commissioners of a decision that the staff made the past month. He said they had been under considerable timing problems last month with incomplete items regarding the card room pilot program. A decision was made that, if the staff doesn't have a report completed at least one week prior to the Commission meeting, they have done all that they can do and it will be held over until the following month.

Commissioner Forrest asked if they would like that to be confirmed by the commissioners? He said he thought that was a reasonable rule. **Director Bishop** said he realized everyone is trying to meet certain deadlines, but there does come a point in time when they would like a little of the obligation lifted off of the staff so they are not trying to scramble five minutes before meeting to get things done. He said they would be putting that in their written procedures also, so that people will be on notice.

CARD ROOM CONTRACTS UNDER APPENDIX B / GENERAL ENHANCEMENT PROGRAM

SPORT CENTER, Yakima

Ms. Winslow said the Sport Center conducts punchboard/pull tabs at Class "E" level and they have card room at Class "E-5" level. The Sports Center is a sole proprietorship owned jointly by Lawrence Orteig and his wife, Beverly Orteig. The card room is requesting approval to operate a total of seven tables, five of which will be operated in house banked blackjack with a \$25 betting limit. The other two tables will operate regular poker and pan card games.

Ms. Winslow said that the Sports Center internal controls were reviewed and it was determined that the controls were adequate and in compliance with the appendices. Several agents conducted a pre-operation inspection and based on the review it was determined that the licensee's operations were in compliance with all of the requirements of appendices B and C and the internal controls were functional as stated in the internal control document. Based on this review, the staff recommends the Sport Center be approved to participate in the Commission's house banking card room test as a Level II, Phase I operation.

Commissioner Ludwig asked if this were the first house banked contract in Yakima. **Ms. Winslow** said yes, it was.

Commissioner Herbold said that under Packet #1, Item #2 which is the Card Room Enhancement Program Operating Agreement Amendment, she noticed nothing has been previously paid. On most of these, there is an amount that has been paid. She wondered why this one different. **Ms. Winslow** said she would assume that because she was not familiar with the facts that this is the first for the organization to be in the card room enhancement program.

Mr. Orteig said his father is Larry Orteig, the owner, and he said he was confused about what they owe, because they had paid for their license, and then they gave \$5,500 for investigation fees, and then the WSGC staff told him he owed \$8,400 more. It was so close to the review time, so he just sent it in even though he couldn't figure out why they had to pay that much. He wanted to go forward with the program and then work with the staff to figure out if he overpaid.

Ms. Winslow said that to address the concern, it did take four agents to operate the card room investigation. Then, in addition to that, there are review costs that are separate from the program costs, so he paid for the staff to do the review and then, based on the comments that he has just made, he is just entering the enhancement program; he had not paid any of the program fees prior to today. **Chairperson McLaughlin** asked if that were \$8,400. **Ms. Winslow** said that was correct. **Commissioner Ludwig** asked if the licensee gets a breakdown of how that figure was arrived at. **Ms. Winslow** said that the cost breakdown is found in the WAC rule. **Commissioner Ludwig** asked if there was a requirement that they have an itemization of how many hours agents spend on the investigation and so on. **Ms. Winslow** said they had a billing sheet, but she wasn't certain it was sent out to the licensee, but it is available for them to see.

Commissioner Ludwig moved that the house banked card room contract with The Sport Center of Yakima be approved. Commissioner Herbold seconded the motion. *Vote taken; motion carried with five aye votes.*

CARD ROOM CONTRACTS UNDER APPENDIX C / HOUSE BANKED PILOT TEST

Ms. Winslow said that the Riverside Inn in Tukwila is a commercial restaurant, country western lounge, dance hall, and card room. The licensee is a participant in the card room enhancement program and is currently operating under Level II, Phase I of Appendix C. The licensee has 15 card tables, which consist of seven house banked blackjack tables, two progressive blackjack, two Let It Ride, two Caribbean Stud, and then poker tables. A comprehensive review controls operation and records which was done in May. It was completed as of July 8. No violations or compliance issues were noted on their final review of the organization; therefore, they recommend approval for Phase 2, Level 2 operation.

Commissioner Herbold noted 19 violations on one of the forms. She said she was assuming that between the time of the inspection when these were noted and now they've all been corrected to staff's satisfaction.

Ms. Winslow said that was correct. That was why the date that things were completed was July 8, 1998.

Director Bishop said that was an example of why they wanted to change their policy to required completed papers be submitted at least a week in advance.

Commissioner Forrest said that he was impressed by the number of corrections that were necessary and the complication of number of person-hours that went into this and he wondered if this were a little characteristic of the early stages – he wondered if this were a little more aggravated than was normal or how did it stack up. He said it was new to him and it seemed that there were more problems than there should have been.

Ms. Winslow said that everyone was evolving in this process, but she said that based on the staff experience gained this year that they are finding that a lot of the operations that have come from the card room environment have had difficulty evolving to a house banking environment, which is a lot more sophisticated. In a card room environment they spent very little time because it was not one of their priorities in the past. So they didn't have the regulatory burdens or many inspections so they're learning to cope with more compliance requirements and she thinks it has been a learning process for them; they didn't know exactly what they were getting into. The initial review is not enough for them to understand the complexities of things. When the staff go in six months later and everything is checked to make sure that they are in compliance with the internal control packet, the records and Appendix C, that is about the first time that they've realized how complex the situation is. They don't have an internal mechanism to be checking those things. They're learning as they go, so she thought it was very hard to say that this is an exception. She said she would guess that they were going to see this a lot unfortunately.

Commissioner Forrest asked how the agency sustains this detailed multi-agent work and overtime. **Ms. Winslow** said their fees cover all their costs.

Commissioner Ludwig referred to page 9, item #13, subparagraph B, the dealers are not announcing "no more bets" and they did not remove the progressive wagers from the inventory bin. **Ms. Winslow** she did not have the answer to that off the top of her head. If it said progressive wagers, she guessed that it was the progressive blackjack game. And at this time this would simply be an internal control item that the organization had developed for their own procedures – it was not something that the WSGC had required. At the point they realized they were creating a burden on themselves that wasn't an advantage to the house, so they decided to take that out of their internal controls.

Commissioner Ludwig asked when their contract was signed under the program for house banking. **Ms. Winslow** said she did not have that information and could get back to him on it. **Commissioner Ludwig** asked if it had been at least six months. **Ms. Winslow** said they wouldn't be allowed to go forward if it had been less than six months.

Chairperson McLaughlin paused before calling for a motion to introduce Senator Ray Schow, ex officio member and who had been working all morning.

Commissioner Heavey moved to approve The Riverside Inn. Commissioner Forrest seconded the motion. *Vote taken; motion carried with five aye votes.*

HOUSE BANKED PILOT TEST – PHASE II REVIEW

SKYWAY PARK BOWL, Seattle

Ms. Winslow said this one is located in the south Seattle area and consists of a casino, commercial bowling lanes, miniature golf course, lounge and restaurant. There are two shareholders, Ron H. and David Pardey. They have a pull tab license and an E-4 card room license was issued to them on January 20, 1984. They

entered the card room enhancement program on August 12, 1996. At that time they were approved for two jackpot schemes and an alternative method of collection at the two tables. A request to participate in the house banking test program was submitted on July 23, 1997. Approval to operate a total of four tables consisting of Caribbean Stud, Let It Ride, Progressive Blackjack and Blackjack with a maximum betting limit of \$25 was granted by the Commission on January 8, 1998.

Ms. Winslow said a comprehensive review of the controls and operations and records was done in May and completed as of July 8, 1998. No violations or non compliance issues were noted on the final review; therefore, staff recommends approval for Phase II, Level II, Operation.

Dave Pardey said that, when they started two months ago, their procedure manuals were over 125 pages thick. There are probably over 400 items in there that they have to perform correctly to run their organization in accordance with the Gambling Commission requirements. When they started the process, he told one of the staff that they were doing at least 95 percent of the things right. The 5 percent of the things not right were either because they didn't know how to do them or because there are changes made every month.

Commissioner Ludwig asked how far south from the city of Renton they were.

Mr. Pardey said they are two miles from the city limits of Renton and less than one mile from the city limits of Seattle. They are located west of Renton right between the city of Seattle and the city of Renton in King County.

Commissioner Ludwig asked if they were reasonably close to Tukwila. **Mr. Pardey** said they are less than three or four miles from the city of Tukwila. **Commissioners Ludwig** said that within two or three miles he had a couple of card room competitors.

Chairperson McLaughlin announced the arrival of Senator Prentice, ex officio member of the Gambling Commission.

Senator Prentice said the Skyway Park Bowl was not only in her district but was in her neighborhood. She said they were closer to Tukwila than they thought. He said it is a little island of unincorporated King County and she watched Skyway Bowling Lanes since it first opened. It's the only recreation area in what is really a lower socioeconomic area and they have particularly struggled to keep this profitable. If they were to lose that – if he were not able to continue in business – kids up there would have nothing to do. The business has helped with trying to do away with some teenage problems that are there. She said this was one of the areas they need to deal with. She keeps her eye on the card rooms, she looks at their security and there are some good things there. She said that the clientele is racially diverse, which reflects the way Skyway is.

Commissioner Heavey made a motion to approve Skyway Bowling Lanes; **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

OTHER BUSINESS/GENERAL DISCUSSION

Chairperson McLaughlin asked if there were any comments or questions from the public on anything. No one had any comments.

Chairperson McLaughlin announced the executive session and adjourned the public meeting.

EXECUTIVE SESSION

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JULY 10, 1998

Chairperson McLaughlin called the meeting to order at 9:30 a.m. at the DoubleTree Inn, Spokane, Washington. She introduced the WSGC staff and Commission members at the head table.

MEMBERS PRESENT: LIZ McLAUGHLIN, Chair; MARSHALL FORREST, Vice Chair; EDWARD HEAVEY; CURTIS LUDWIG, and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE and SENATOR RAY SCHOW

OTHERS PRESENT: BEN BISHOP, Executive Director; SHERRI WINSLOW, Division Director, Field Operations; DERRY FRIES, Division Director, Special Operations; AMY PATJENS, Public Affairs Manager; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant

APPROVAL OF THE MINUTES FROM THE JUNE 11-12, 1998, MEETING

Chairperson McLaughlin asked if there were any changes to the minutes from the June 11-12, 1998, Commission meeting held in LaConner. There were none and she said the minutes were approved as written.

STAFF REPORTS

1999 AGENCY REQUEST LEGISLATION

Ms. Winslow said there is one bill package proposed for the 1999 legislative session that relates to criminal background checks. Currently, the agency is having difficulty receiving non-conviction arrest data. Some law enforcement agencies, including the Washington State Patrol, have interpreted the Commission's limited jurisdiction in such a way they do not have the authority to obtain information through the Access system. They are planning to move forward with proposed legislation unless they get direction otherwise. The legislation will clarify the definition of a criminal justice agency to include the Gambling Commission. The staff will come forward to request approval at the August Commission meeting for this proposed legislation, which Ms. Patjens just handed out. If approved, they would then submit the proposal to the Governor's Office by the September 8, 1998, deadline for agency request legislation.

Chairperson McLaughlin asked if there had been problems with obtaining important information in the past. **Ms. Winslow** said they had had some problems. They have required to submit extra paper work to some of the local jurisdictions to gain access to information. In some areas they have had to use other resources to gain access to that information and they have had to pay additional costs.

Director Bishop said that some of the jurisdictions will provide the agency with only a written form rather than through the Access systems, and that lengthens the time out for a license considerably.

Senator Schow asked what non-conviction information was. **Ms. Winslow** said it was any arrest data that someone has not been formally convicted of.

Mr. McCoy said that essentially what had happened is that the State Patrol's statute has used a different definition of criminal justice agencies. With the limited jurisdiction law enforcement agencies, such as the Gambling Commission, they have defined the criminal justice differently and that's the problem they are trying to address. The statute doesn't say law enforcement; it says an agency – a government agency which performs criminal justice functions; and then they define criminal justice. They don't say law enforcement agency.

Commissioner Forrest said it seemed to him that the Commission doesn't fit very well into the definition and asked why they don't just change it to list specific agencies and include the Washington State Gambling Commission in that list. **Commissioner Heavey** said the problem he had with that was that some other agency that does similar duties, for instance the Liquor Control Board. **Director Bishop** added the Lottery Commission, too. **Commissioner Forrest** said if they want to, let them say they want to be included. The Commission should not worry about them. It seemed to him they ought to worry about it themselves. **Director Bishop** said they anticipated that that was exactly what would happen, the Liquor Board and other law enforcement type agencies that are having the same troubles that the Commission is having with acquiring information would want to be added, too. **Commissioner Heavey** they should anticipate that difficulty and address it more broadly, rather than naming a particular agency. **Director Bishop** said he thought if they made it too broad then they would get a lot of reluctance from law enforcement agencies. **Commissioner Heavey** said once they add the Gambling Commission, then they'll have to add the DSHS; then they would have the Lottery Commission, and then they would have the Liquor Board and all of these people are going to jump on the bandwagon.

Ms. Winslow said they had spoken informally to the Washington Association of Sheriffs and Police Chiefs (WASPC) Legislative Committee. Some of the chiefs and sheriffs who've had difficulties in obtaining information from have said that if they had this interpreted differently they would not necessarily oppose a package going forward. She said the staff did not ask if they would be interested in supporting other governmental agencies – Liquor Board, Lottery Commission – being added to that.

Commissioner Forrest said he was not satisfied. It seemed to him that the Commission's priority is concern about the people it hires. State policy ought to give some protection to that and the Commission's needs override the consideration of protecting people who were falsely arrested. He said they trust that they investigate somebody for licensing qualifications, the staff has enough sense to say, under certain circumstances, "well maybe the arrest was a mistake." But it seemed to him that rather than trying to anticipate and particularly trying to improve other agencies – let them make their case to the Legislature on their own merits. He said the staff had a persuasive case; the agency has a responsibility and needs that information. He strongly recommended that they ask to be identified as an agency that's entitled to this information without trying to draw some general thing that will then cause more problems. He said he thought the agency's case was good enough and it ought to stand on its own merits.

Chairperson McLaughlin said that she agreed that the underlying part is the way they have it here would be all right with her. **Commissioners Forrest** said he would just identify it as "a, b, c..." rather than trying to bring it in under a general terms, but that's for the bill drafters to worry about.

Chairperson McLaughlin said that they all feel that this is a good thing for them to do because it is important to know about the arrest even though it was a mistake.

BUDGET

Director Bishop said he would present the staff's draft budget to the Commission for consideration of this budget. Bob Sherwood, the business manager, is here to answer any question they might have. He said he would walk through where they started last biennium – the adjustments to that to get to the starting point and from there going into the staff presentations or staff requests.

Director Bishop said they started their approved budget for the last biennium with \$18,800,000. The first thing that OFM required them to do was to remove inflation from that. The next line was the legislative adjustment at the end of the next year; across the board salary increase. They added 11 FTEs for card room pilot program and other adjustments 0.1 FTE and \$40,000 do not relate to each other but the 0.1 FTE is the increased use of the commissioners' time over the biennium. That gives an adjusted authorized spending plan of \$20,900,000. That is the starting point for planning the next biennium.

Director Bishop said that figure carries over to the next page with the addition of the Carry-Forward adjustment if they recalled at the first of the year, they went to the Personnel Board to get their staff salary increase at \$210,000 adjustment. Also includes the program or requests that will be going to Board month after next for the assistant directors and the deputy directors. That has been approved by OFM so that gives an adjusted carry-forward level of \$21,150,000.

Director Bishop said that while OFM requires that they take inflation out, then they require that they put it back in so the next step is to replace it at \$165,000. That looks like an awful small inflation adjustment for \$21,100,000, actually that's because the inflation rate only applies to certain business services. It does not apply to the majority of their budget items. The maintenance level then becomes \$21,300,000 and then they get down to the staff requests. They will be asking to add 7 FTEs for the pilot program. They have a much better understanding of the level of work that must be done than they did initially when they requested the money and that is \$775,000. The breakdown of that. The 7.0 FTEs they have 2 going into licensing services; they've had a tremendous increase in the number of employees coming forward. They are also realizing the turnover in the card rooms that they anticipated was coming as well as getting new people interested in being licensed that were never licensed before, so that has a lot to do with the increase in licensing.

Chairperson McLaughlin informed an unidentified person in the audience who had a question that there would be an opportunity for questions about the budget after the presentation.

Director Bishop said that in field operations, people that would be doing as well as implementing the program – 3 people – business operations they added 1 by increasing the flow they have an immense amount of paperwork coming. He said that they will have approximately 5,000 employees involved in the 60 card rooms that are planned in the biennium. 1 FTE in the special investigations unit. This FTE will be used for undercover-type work. Below that is the breakdown of the \$775,000, the majority of it – over 70 percent is in salaries and benefits. \$95,000 equipment will be a one-time charge that will not carry forward.

Director Bishop said that the next line item that the staff has asked for is to continue to develop their alternating delivery of services; the current biennium they are working on they have completed one new video, they're working on two other ones, they want to continue to do that to make their training more valuable to the licensees and also to make it more meaningful. The next step is to put in on the Internet station so that people will be able to call up and attend their training on-line. They anticipate that at the end this upgrade that they will probably be able to remove most of the sit-down class-type things that are a real pain to a lot of the licensees because we have to schedule them. They would like to make it available more when the licensees have time to do it.

Director Bishop said that the increase rate of vehicle replacement currently our budget calls for replacement of four vehicles. He said they carry a total of about 80 vehicles. The useful life of the vehicles is six years. That would require them to turn over about 12-14 of them a year whereas in their budget they have only 4. This would bring them up so that they would be able to get them on schedule at 14 a year; an increase of 10 vehicle turnovers at which 5 would be vehicles and 5 used that we would pick up from various government agencies.

Chairperson McLaughlin wanted to know if the reason they're turned over at 6 years because they're worth more up to resale value on them. **Director Bishop** said there were several factors and that was one of them. The use is between 15 and 20,000 miles a year – that is approximately 100,000 miles in six years. They would be very costly to maintain at that point and lose all value. The state has a set rate of replacement value on six years. He said a few years back they got into a bad cycle and they ended up buying about 20 over a year because of adding staff in '91 and '92. They all came due to be changed at one time. They also, because of budget problems then, didn't buy any over the next several years. That put them behind the power curve. He said they had been able to catch that up over the past two years and can get better management of the cars, this

would be the final thing that they would need to get a program for it so they don't have to keep doing this type of thing.

Commissioner Forrest asked if the turnover cycle was state policy. **Director Bishop** said that the state policy is six years, 100,000 miles. They cannot be replaced for less than 80,000 miles. **Chairperson McLaughlin** said she thought they would be changing that because of the auto makers' claims that cars can be driven much longer than 100,000 miles.

Director Bishop said that the last line item staff request is a request that they receive from the State Council on Problem Gaming to increase the Commission contribution to their program at \$50,000 a year. They'd actually asked that the Commission increase to \$100,000 a year and they reviewed it and think that the staff could support half of that or \$50,000 a year. He said that Gary Hanson could answer any questions regarding this.

Gary Hanson, Executive Director, Washington State Council on Problem Gambling, said he thought the Commissioners knew from the report they handed out last time, that the help line calls had been consistently going up and with only two on staff, one person is responsible for that end of the administrative work. That will have to be dealt with next year in one of two ways. Either they will have to hire more staff on the help line or contract out with some existing crisis center, which they will have to train and then monitor the help line. That's going to cost in the range of \$30,000 overall to do that. Other things that are going on is that they are having a lot of increased calls for training workshops and they are also at the request of treatment people putting together a state orientation/certification program and that will take staff. In addition it's already pretty much overwhelming. They are expecting the training to go up from what they have now about four workshops year to between nine and twelve because of the certification because of requests. And the third thing is just a general increase both from a youth awareness program and for other calls they have for an increased number of presentations and the like. He said that was fairly well expressed in a letter that he had sent.

Chairperson McLaughlin asked how much they received from the Lottery Commission and the Horse Racing Commission. **Mr. Hanson** said that at the present from the Horse Racing Commission, they get nothing and the Horse Racing Commission has informed him that they don't have any money. As far as the Lottery, the Lottery's direct contributions are fairly limited in that they pay about \$6,000 to \$8,000 a year, which includes mainly paying for the hard costs of the help line and for the advertising of the help line in the yellow pages and other types of things. Merritt Long, the director, has told him he wanted to more on that. They have some legislative language that prevents them from doing this so much in direct contributions. He said the Lottery deserves credit because they are funding the second problem gambling survey this year, which is costing about \$150,000, so they've made contributions to the issue in other ways. He said that in addition, the tribal industry has come forward over the last two years with funding and they expect funding as they do this with other industry sources, but the tribal profit margins are not what some of the tribes would expect, so he was not sure that that would be maintained or not.

Chairperson McLaughlin said he had asked for a doubling of fees over the biennium and she wanted to know whether his help line calls had doubled. **Mr. Hanson** said the graph that was in the annual report that he handed out last meeting they doubled between '95 and '96. Between '96 and '97 they went up, he believed, about half again from about \$1,600 to \$2,300 (off the top of his head estimate), so they may not be doubling every year, but they're jumping. He said he had to project out two years for the budget so he has to try to figure out what's going on.

Director Bishop displayed some charts showing how the money is spent. He said the agency was mainly driven by the cost of salaries and benefits – social security, health care, et cetera – which is 70 percent of the costs. **Chairperson McLaughlin** noted that salaries were going down in the next biennium. **Director Bishop** said that he would turn that question over to Bob Sherwood.

Bob Sherwood, business operations manager, said that the salaries and benefits, as a total dollar amount, would not go down; in fact it would go up. But because the total budget is increasing, the salaries and benefits portion of the percent of the budget was slightly less for the upcoming biennium than it was at the current biennium. **Director Bishop** said the percentage was driven in part by two factors that will change it slightly and those two factors are they had asked for \$200,000 for an increase in their program for training, and he asked for

\$200,000 for replacement costs for the vehicles and the additional \$100,000 in problem gaming means that they are spending more money in those areas therefore the percentage of those went up. Personal service contracts went up 1.3 percent as compared to the total.

Director Bishop said the next largest part of the budget is goods and services, including rent and leases, is a good portion of it. This includes repairs, subscriptions, vehicle maintenance and contract services that fit outside of the state definition. In the next biennium, the one area where the costs decrease is the Attorney General. He said that during the budgeting process they don't get that often until after the Attorney General's Office gets its budget in and approved, so those numbers in that area are subject to being adjusted.

Director Bishop said that the next chart showed a summary of the revenue. By and large, the biggest portion of the budget comes from the license fees of people who are regulated by the Commission. There is a \$900,000 increase over the next biennium from the current biennium. In the footnote below, it talks about those planned increases. This particular chart does not include the increase that was recently passed on June 30 and will be discussed later. Under Initiative 601, to keep their base high, they must plan at least to put in the increases that I-601 allows and they have been built into this chart, not at the first of the fiscal year, but in the mid-point of the fiscal year. He said this allows them to do some planning, some regulating of the fees when they have better information. Up front, it must be put into the plan for it to get there or that their planned revenues would not meet planned expenditures.

Director Bishop said that in this particular chart the staff request was for \$22,671,000 as the total bottom line. The revenue that they are asking during that year is \$22,134,000, or about a half a million less. He said they felt comfortable with that taking out some of the things that they've asked for will make this more efficient. Also, the budget is set forward in a 100 percent capacity – in other words that they would have all of their people hired and on-hand 100 percent of the time, and that just doesn't happen in the real world, so they feel comfortable that putting forward \$500,000 less.

Commissioner Herbold asked if he also had a chart that showed the actual revenue to date so that they could see in each of the categories how close they are to a projection – are there some of them that are outstanding amounts that hadn't been collected? **Director Bishop** said he didn't have one at this presentation, but it was something they track closely – the budget projection versus what they receive. He said his recollection was that, in the current biennium, the agency was about 105 percent of their projection on license fees. They were under the projections for tribal gaming by a considerable amount – by as much 20 percent that had to do with two things. Accounts receivable were not received from some of the tribes and also the fact that they had planned at the start of the biennium for 12 casinos to be operating with 400 employees. What they have seen over the last two years specifically is that the larger and more successful casinos have more than 400 employees – 600 to 700 in some cases. But the smaller ones are well below that – some as low as 125 to 150 employees. That part of the component they stabilize at a little over 4,000 licenses for certified employees rather than growing to the point of about 5,000, so that's just a component that may help.

Chairperson McLaughlin asked if the term "other" included fines and forfeitures. **Director Bishop** said that was exactly what it included and some other minor things like if they happened to sell vehicles, the amount that they get. The \$500,000 in the '97 or current biennium is an extraordinary number that had to do with a forfeiture from a case that they had with a manufacturer that had elected to try to operate in the state without a license. That was \$700,000, but typically \$200,000 (\$100,000 peryear) would be their planned number. That would make up mainly small forfeitures from illegal activities that they are involved with and fines collected. He said they don't plan to live off of fines.

Director Bishop said the next chart showed a breakdown of the various sources of revenue, starting with bingo, which shows a decline. The revenue forecast estimates are for an area of 3 to 5 percent a year decline in bingo; amusement games is a growing area as they go into different locations that have been approved by the Legislature and the Commission. Punch boards and pull tabs continue to grow although not at the earlier rate of the late '80s and early '90s, which was a 12 percent growth rate and it has declined to the current 5 percent growth rate. Enhanced card rooms were very small in the 95-97 biennium and the current biennium is higher than the next biennium. The reason for that spike is because they anticipate an increase for this biennium due to the beginning popularity of the pilot program. Under managers and employees, the continued growth in both this

biennium and the next biennium has to do with the house banked games; manufacturers and distributors basically is static; ID stamps an almost mirror to punch board and pull tabs; other licensing revenue they anticipate to be static or down. Those are the small activities – raffles, fund raising events, and non profit managers, foundations, licensees, -- very low level things is what that entails. In Class III gaming, there is a decline for this year and a slight increase over the two previous bienniums for next year, which has to do with the projection of two additional casinos opening during the biennium – the Quinaults and the Kalispels. The big spike in the current biennium under “other” has to do with the forfeiture that they got.

Director Bishop said that the next chart was a summary of the operating capital account – the Fund Balance. They plan to collect \$17 million in license fees next biennium, which equates to almost \$9 million per year. From that it is all paid in advance so at any one time under normal circumstances the bank balance should be equal to one year because it's collected in advance. Because they know that if the Legislature or something else happened to say there's no more licensing, it would definitely be a phase-out type of thing. They feel they can operate with less than one year and try to make that a target for the Legislature a little bit smaller. It doesn't end of getting a lot smaller this time around with their plans. One reason for that is this does not include unbudgeted expenses. OFM does not allow them to budget for certain contingencies such as lawsuits, which they would have to pay additional legal fees and their penalties. Those averaged sometimes as high as \$4,000 a year. This does not include the plan or the proposed decrease that they will talk about later.

Director Bishop said the next chart showed a graphical perspective of the planned spending and revenue from the top two lines. During the current year, they are projecting that their expenditures will cross the line of revenues coming in. That will start the fund balance down slightly. The plan is that they would try to get it down to a three-month period, but they want to do that over a period of time rather immediately. If they do it immediately, they could put themselves into problems and in fact 601 would not allow them to immediately jump back up, so they have to go off their base on that. During the next biennium and this one was projected out to the next ensuing biennium that they plan their expenditures to be slightly higher than revenues so that by the end of the next biennium they would be very close to a three month operation.

Commissioner Herbold wanted to know if the 11 FTEs shown under the Card Game Pilot Program for the current biennium were hired and working. **Director Bishop** said they were still working on it. They are interviewing people right now. He said they are actually using more than they have because, to a large degree, they have been using overtime to do a lot of the work that they have been doing. They are actually using more FTEs than they have people, but they are in the process of hiring right now. **Commissioner Herbold** said that the next biennium showed an additional 7 FTEs. She said that if she were a card room licensee that wanted to participate in this, she would look at the breakdown and see the 7 FTEs at \$486,000 which is just a little under \$70,000 per person average. She said that seemed a little high to her. She asked if that were the going rate for people in that.

Director Bishop pointed out that that figure was for two years. He said he would like for the commissioners to look at the budget and give input over time before the next budget if they would like to see some adjustments. Or, if they would like to have questions answered so at the next meeting in Gig Harbor, they will bring forward their final proposed of which they will have copies for all the public and at that time they would ask for the Commission approval of it.

Chairperson McLaughlin called for questions from anyone in the audience.

Mary Ann Branson Williams addressed the commissioners about her very great concern about the problems caused by gambling in communities and families. She asked several questions to inform herself of how long the Gambling Commission had been in existence and why there were no Spokane commissioners. She asked how much was being contributed by the state to alleviate the problems that gambling caused for communities and families. She said that in Spokane, very little was being done to take care of this problem.

Chairperson McLaughlin and Commissioner Ludwig informed Ms. Branson Williams that the Commission was formed in 1973; that the Governor appointed the commissioners and that there had been Spokane commissioners who had been appointed by the Governor to sit on the Commission in the past but that currently there were no vacancies. They suggested that Ms. Branson Williams could discuss her concerns about

representation with the Governor. They also informed Ms. Branson Williams that the Gambling Commission contributed to the Washington State Commission on Problem Gambling, which addressed her concerns. **Ms. Branson Williams** did not think that was enough to take care of the problem.

Senator Schow informed Ms. Branson Williams that the Legislature helped with this problem by requiring the gambling industry to pay taxes to cities and counties to be used for this problem if that was their desire. **Ms. Branson Williams** informed Senator Schow that the city of Spokane had not chosen to do that. **Senator Schow** told her that citizens had the right to work with their city and county governments to try to influence them how to use the money they received from gambling for the purpose that she thought it should be used for.

GAMBLING SERVICE SUPPLIER RULES

Amendatory Section WAC 230-02-205 – Gambling service supplier defined.

New Section WAC 230-02-208 – Punchboard and pull tab service business defined.

Amendatory Section WAC 230-04-119 – Licensing of gambling service suppliers

Amendatory Section WAC 230-04-124 – Licensing of manufacturer, distributor, and gambling service supplier representatives

New Section WAC 230-04-133 – Punchboard and pull tab service business – Registration required – Procedures – Restrictions

Amendatory Section WAC 230-08-025 – Accounting records to be maintained by distributors and manufacturers

New Section WAC 230-08-026 – Accounting records to be maintained by gambling service suppliers

Ms. Patjens said Division Director Cally Cass-Healy has worked on these rules for several months with industry and also Jacki Fischer, who is the program manager for the Financial Investigations Unit. She said Item 3(a) defines gambling service suppliers and exempts from the definition businesses that provide non management record keeping services whose gross receipts do not exceed \$50,000 per year. Item 3(b) separately defines those pull tab service businesses and Item 3(c) sets forth the fees for gambling service suppliers. It also clarifies that a gambling service supplier must provide a description of the services they plan to provide to the Commission and that was clarified last month. Item 3(c) also prohibits the gambling service supplier from holding a substantial interest in a distributor or manufacturer business unless the director determines that the potential for influence is not material. That's also been slightly reworded from last month. Item 3(d) deals with licensing requirements for representatives of gambling service supplier businesses and it clarifies that gambling service supplier representatives may hold an interest in a distributor or a manufacturer business, but it must inform the Commission, the operator, distributor, etc., of the relationship and that the manufacturer-distributor may not sell pull tabs to the operator. Item 3(e) states that the pull tab service businesses must register with the Commission and obtain a permit. Lastly, Item 3(f) and Item 3(g) are record keeping requirements for gambling service suppliers.

Ms. Patjens said the staff recommends adoption with one small change to Item 3(a). There is language in the packet that refers to "gross income" and it should actually be "gross billing," which would make it consistent with 3(a). They had made that change a couple of months ago to 3(a), but had overlooked to change 3(b).

Commissioner Herbold asked if the word, "received" should come out too. **Ms. Patjens** said yes, so it would say "the combined total gross billing for such services." **Commissioner Forrest** asked what the effect of that change would be. **Ms. Patjens** said that it would just make it consistent with what is stated in 3A and will be help clarify that then they won't get into disagreements over how they would be measuring gross income but it will be the billing that they're making.

Chairperson McLaughlin asked if they pay on money they don't get. **Ms. Patjens** said it didn't have to do with the tax structure, although it could have ramifications because it just helps the staff determine whether they need to get a license as a gambling service supplier or whether they just need to get the permit for the pull tab services. They bill \$50,000 a year, then they will have to be licensed.

Commissioner Heavey said he thinks there are a lot of people who would think that a \$50,000 a year job would be a great part-time job. He thinks that's too high a figure for part-time people or just using this to make a few bucks; more like \$15,000 not \$50,000. This \$50,000 is a full-time job. **Ms. Patjens** said that is correct, and that's why if they make \$50,000 they would need to go ahead and be licensed as a gambling service supplier. If they're under that amount, which the smaller businesses are, then they're just able to get the permit.

Commissioner Heavey said that every other full-time employee has to get a license. \$50,000 is a full-time job. **Ms. Winslow** said that on some occasions they will have a group of people working in one of the locations where they would all be doing it part-time, but the gross billing of the group would be under \$50,000, so there might be three or four individuals working together as a group.

Commissioner Heavey said the problem is three or four individuals could form a corporation and they bill \$49,000, form another corporation and bill \$49,000 and another. It seemed to him like they're talking about something that's a part-time job for an individual and \$50,000 is a full time job and they have to license everyone else who works full-time and if there is job sharing, working in a card room you have three people taking one job, all three of them have to be licensed. You're talking about the same thing. So they have to figure out \$15,000, not \$50,000. **Director Bishop** said the gross billings do not take into consideration what they have to spend.

Commissioner Heavey said this is about people working at home doing this as an adjunct income to help the family – that's what they're talking about. That was the whole basis for this rule. Those people shouldn't have but limited overhead. **Chairperson McLaughlin** asked if they would like to hold this section over.

Commissioner Heavey moved to adopt the rule change; **Commissioner Herbold** and **Commissioner Forrest** seconded the motion.

Chairperson McLaughlin asked if they would change that instead of billings then to income for the person \$15,000. **Commissioner Heavey** said it doesn't make that much difference to him, but the problem it creates on income is a problem for the staff in determining whether someone is making more than \$15,000 a year. He said he didn't really care; he just wants to this rule is for what they were talking about, which was people who are working part-time in their home as an adjunct to the family income. That's the people who they are talking about and those are the letters they got and he fully agreed that shouldn't be penalized financially when they do a very limited function on a very limited basis. He said he has a problem with saying \$50,000 a year is limited income. Most of the bingo managers don't make that much money and they run major bingo operations.

Commissioner Herbold asked the WSGC staff if they recall the letters of comments they received from people who are, in fact, doing this kind of business. She thought there was a concern from them. **Ms. Winslow** said yes, and that during the study session discussions and the comment period, they had originally proposed \$25,000 to the group and they came back with a counter-proposal; they felt that it was unfair to at the \$25,000 level and they asked that it get bumped to the \$50,000 level. **Chairperson McLaughlin** asked what their reasoning was. **Ms. Winslow** said it was because \$25,000 was too low.

Commissioner Heavey said he remembers those discussions and it seemed to him what they were doing is piggy-backing on a problem that was identified. He said they were only making \$400 a month and had to get a license, which was unfair. But when someone comes along and piggy-backs onto that, then it seemed to him to be inappropriate. They are then responding to a different problem outside of the business, but it is essentially a full time job. If it's full time, they get a license. If it's an adjunct of family income; it's very limited and even if you cheat you can't keep very much. If someone makes \$50,000 a year, they cheat a lot. That should be controlled.

Chairperson McLaughlin clarified that Commissioner Heavey had an amendment to change the amount from in Item 3B from \$50,000 to \$15,000.

Commissioner Herbold suggested that, since this is up for final action today and this is a significant difference in the amount involved, she wondered if it would be appropriate for the commissioners to hold this over to next month so that the people who are affected by it can find out about the change and speak to it because Commissioner Heavey makes a compelling argument, but she wanted to hear the argument on the other side as to why they think \$50,000 or \$15,000 is more appropriate. **Commissioner Heavey** said he would feel comfortable holding this over and keep his amendment alive.

Commissioner Forrest asked if the staff felt comfortable with holding this over. **Director Bishop** said that as he recalled it, the big complaint that to investigate a business doing this, they set the license fee at \$575. Because these businesses are businesses, they are a lot different than individuals, so taking a \$15,000 threshold, now if someone makes \$16,000 and has to pay a \$500 fee, whereas that was the point that it went closer to \$50,000

more than anything else. It has nothing to do with his point, but the fact that was a big factor in why the staff said \$50,000 is a lot more reasonable if someone gets to that level paying that level of fee. He said that the rules are so intertwined that they can't pass one without passing all of them or making significant modifications.

Chairperson McLaughlin asked the commissioners if they would feel more comfortable holding the whole rules package over for gambling service suppliers until next month and the commissioners consented to that. **Mr. McCoy** said there may be a timing problem. **Director Bishop** said they would recheck to see if it had to be re-filed. **Chairperson McLaughlin** asked if that meant they had to go through the whole process again. **Mr. McCoy** said they would need to have at least a 30-day period for comments, although the agency has typically allowed a longer time period for comments. But they are not required to give more than 30 days. **Chairperson McLaughlin** called for public comment. No one came forward.

NON-PROFIT LICENSING REQUIREMENTS

Amendatory Section WAC 230-04-064 – Certification procedure – All licenses – Formal commission approval

Amendatory Section WAC 230-08-122 – Annual progress and financial report – All nonprofit and charitable organizations

Amendatory Section WAC 230-08-255 – Bona fide charitable or nonprofit organizations – Significant Progress

Repealed Section WAC 230-12-060 – Charitable or nonprofit – Bingo – Special review

Amendatory Section WAC 230-30-052 – Punchboards and pull tabs operated by charitable and nonprofit organizations – Net income required

Ms. Patjens said these are also up for final action and address the licensing requirements for a non profit organization. Item 4(a) requires that a representative from a group 4 or a group 5 organization – those are people who have gambling receipts that are over \$3 million that a representative be required to attend the Commission meeting during its qualification review if the director requests it. Item 4(b) would require the same organizations for 4s and 5s to submit financial statements prepared by licensed public accountants.

Ms. Patjens said that the prior requirement, which is the requirement under the current rule. These organizations must submit financial statements that have been prepared in accordance with generally accepted accounting principals. Item 4(c) reorganizes the rule regarding when an organization is making significant progress toward its stated purposes and also supporting services when the director may exempt the organization for meeting the percentage requirement. This rule has been redrafted since the June meeting. She said it was her understanding that some people in the audience may have some additional comments on it and also Commissioner Herbold had given them some additional comments on it.

Chairperson McLaughlin asked that Commissioner Herbold make her comments before proceeding with the report. **Commissioner Herbold** said she made some form-type changes that are housekeeping changes only. **Ms. Patjens** said the audience comments may result in more substantive changes being made to this.

Ms. Patjens said Item 4(d) would repeal the special review and there have not been any special reviews for over three years. Basically, all the items that would have been considered during a special review are covered by other rule revisions now, such as the system that they have for net return. Item 4(e) revises the net return requirement only for nonprofit organizations that operate punch board and pull tabs only; they do not operate a bingo game. And it also requires that they operate these to make some level of net return for the organization. Staff recommends adoption of these rules. **Chairperson McLaughlin** called for public comments.

Don Kaufman, Big Brothers and Big Sisters of Spokane, said he is speaking today on behalf of the Washington Charitable and Civic Gaming Association (WCCGA), for which he is a board member. He said they were in favor of the concept of the rule and they were in favor of the intent of the rule. Item 4(c), however, has a long ambiguous process to determine whether or not they are in compliance with this rule.

Mr. Kaufman said that it appeared to him that by this rule the Commission is forcing some of them even though they may be able to show where the dollars were being spent, they are almost forcing them into spending program revenues directly from the reserve account and to spend other program revenues from other sources to the program account. This did not seem like good management to him. He said it appeared that there were some examples of how they could spend well over 60 percent of their gaming revenue in program services and be out of compliance with this rule. Some examples might be the agency is maybe running deficits for two or

three years. **Mr. Kaufman** said that, for example, if the Board sets up a special fund raising program, it raises \$200,000 to replenish its cash reserves both from gaming and from program revenues, then all of a sudden they've got the increase in revenue for that year. The revenues, of course, aren't being spent and the programs are there to back that agency up because they've previously spent down cash reserve and could end up being out of compliance. He said he had a large grant coming in during the last couple of weeks of the quarter of the year, but that grant was written to fund program services for the following year. The Board establishes separate fund raisers for such things as endowments. It looks to them that there are some problems with this rule.

Mr. Kaufman said he would ask the Commission to review this rule and not file at this time. His agency would like to work with the staff and see if they can change some language and improve the rule. He said it appeared to them that something like counties requirements would answer some of these problems and they are not against the intent of the rule. They were having problems with the suggestion that they spend 60 percent of the revenue programs. He said they were fine with the intent, it was just getting there through this process which is pretty awkward.

Commissioner Ludwig asked if he did not have an opportunity before to voice his concerns, since this had been originally proposed to work on this specific rule. **Mr. Kaufman** said that was possible; he was not sure. He said he was not able to attend last month's meeting and this was the first time he had seen the revision personally. The Association felt that the revision had not gone far enough to solve the problem that was brought up earlier and they took a vote last night to come here to this meeting opposing this portion. **Commissioner Ludwig** asked if he were specifically commenting on 4(c). **Mr. Kaufman** said that was correct and that they had no problem with the rest of the rules.

Commissioner Ludwig said that since he had been involved with the Gambling Commission, it was his impression that this state agency is unique in their effort to make rules by negotiation and to do just what Mr. Kaufman suggested, and if the WSGC hasn't lived up to that full potential of procedure on this specific rule, then this rule ought to be held over to give an opportunity to them to work with staff.

Chairperson McLaughlin asked if this was significant enough to hold over the whole nonprofit licensing requirements for just that concern. **Director Bishop** said this one could stand alone. The rest of the rules could go forward. **Chairperson McLaughlin** asked if there were any objections to holding this over. **Commissioner Forrest** asked if staff had an objection to holding it over.

Director Bishop said he didn't have any objection to working with the licensees, but in defense of the staff he thought that they try to address every problem with subsection 6 of this by providing flexibility for certain situations. If they didn't include enough for Mr. Kaufman, they would be happy to add more, but they had never had any flexibility before and that's what they had tried to do with the change the way it is. He thought that they had addressed all of the significant ones, but they would be glad to work with him.

Commissioner Herbold said she has commented on this section each time it had come up for discussion. She said she had difficulty figuring out how to apply this, for instance, to a qualification review to figure out whether they were in compliance. It wasn't until she sat down with Ms. Winslow and Ms. Fischer this morning and went over numbers and equations to see how it worked, so she could understand how it could be very confusing. It made sense when she looked at the numbers, but if someone were to give her a test on it today, she'd fail the test. She said anything that would make this simpler and easier for the licensees and the nonprofit licensees to follow would be a bonus.

Chairperson McLaughlin said they would hold over Item 4(c) of the nonprofit licensee requirements. She called for comments.

Commissioner Ludwig moved that the Commission adopt proposed rule as it is listed in the notebook as 4(a) through 4(e) with the exception of 4(c). **Commissioner Forrest** seconded the motion.
Vote taken; motion carried with five aye votes.

PUNCHBOARD/PULL TAB RULES AND HOUSEKEEPING CHANGES

Amendatory Section WAC 230-08-017 – Control of gambling equipment – use of identification and inspection stamps

Amendatory Section WAC 230-30-030 – Punchboard and pull tab quality control program – special inspections, defective devices, reimbursements and fees.

Amendatory Section WAC 230-30-040 – Bonus pull tab series – Definitions – Restrictions

Amendatory Section WAC 230-30-045 – Pull tab series with carry-over jackpots – Definitions – Requirements

Amendatory Section WAC 230-30-070 – Control of prize – Restrictions – Bonus Prizes – Displaying

Amendatory Section WAC 230-30-080 – Punchboard and pull tab series restrictions – Prizes, size of game, and location of winners

Amendatory Section WAC 230-30-106 – Punchboard and pull tab flares restrictions – Standards – Substitute

Ms. Patjens said these are up for final action; three are purely housekeeping changes. Item 5(a), 5(b), and 5(e). Moving on to 5(b), it amends the rules regarding returning inspected punchboard or pull tab games to a manufacturer. Under the current rule, licensees do not have to notify the Commission staff of the defect if no tabs or punches have actually been sold from the game. The benefit of this is that it will help ensure that the staff is aware of all types of defects like this. Item 5(b) clarifies the amount of prizes for carry-over jackpots, pull tabs games.

The next items are housekeeping changes that just clarify that the pull tab series with carry-over jackpots are exempt from the \$500 price pay-out limitations. Item 5(g) clarifies that only pull tab prizes that are over \$20 must be marked off the flare under state law. The second thing that that rule does is clarify that if they have a bonus game flare, the flare must be constructed so that prizes cannot be determined prior to opening the tab. **Ms. Patjens** said the staff recommends that these be adopted. **Chairperson McLaughlin** opened the meeting to public comments. There were none.

Commissioner Heavey moved to file the rules **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

PETITION FOR RULE CHANGE BY WASHINGTON GAMING CONSULTANTS REGARDING PULL TAB GAMES

Amendatory Section – WAC 230-30-050 – Punchboard and pull tab operation

Ms. Patjens said the staff has worked with Julie Porter, who is the owner of Washington Gaming Consultants. This petition would allow an operator to remove the games from display that had been put on hold by a player and then it will enable an operator to place a new game in play. The maximum time that a game should held if it has not been played is seven days and with play, it's 14 days. An operator could not hold more than 25 games. The agency has received three letters in support of this petition and they had asked that the letters be included as part of the minutes. The staff recommends that this be adopted.

Commissioner Heavey asked if, when a game is held, does it require any kind of a deposit. **Director Bishop** said that, although he doesn't think that should be allowed, he said they don't prohibit any type of house rule, per se, as long as they are posted and the player knows what they're getting into which is a traditional policy.

Commissioner Heavey asked if there was any problem with amending the rule to prohibit deposits for a minimum play. **Ms. Winslow** said there wouldn't be a problem from a regulatory standpoint.

Commissioner Forrest said he can't see the risk and doesn't think it should be changed if it's not a problem now. **Commissioner Ludwig** said the operator doesn't have to allow the holding of any games; it's the operator's choice. **Chairperson McLaughlin** said, as she understands it now, the holding of games is presently allowed. **Chairperson McLaughlin** opened this rule up for public comments.

David Albertini said the problem occurs when a guy is playing a game and for one reason or another must leave before he is finished playing the game. This is a way for him to come back and try to win back his money. From an operator's standpoint, he does not care because he is ahead by having the money this guy has already spent on the game. But this would be a way for the player to have a little more control over the game. He said that if they must keep the game up in sight where it can be seen, the operator can't put another game in play and if there are three or four games saved, then there is no room for play for new customers. He said this rule is more

for the customer than it's for the operator.

Mary Ann Branson Williams said pointed out that this is an example of what her objection to gambling is and how it is an addiction and affects the entire family.

Commissioner Ludwig moved to adopt the proposed rule as amended and as the staff recommends. **Commissioner Forrest** seconded the motion.

Vote taken; motion carried with four aye votes; Commissioner Heavey voted no

BINGO RULES

Amendatory Section WAC 230-20-102 – Bingo prizes – Record of winners

Amendatory Section WAC 230-20-125 – Discounts and promotional gifts – Authorized – Limits

Amendatory Section WAC 230-20-249 – Three number speed bingo – operational procedures – restrictions

Ms. Patjens said there were three rules that were up for discussion that were filed after last month's meeting. Item 7(a) is for games that have progressive prizes with jackpots and clarifies that licensees must maintain a record of such prizes. Item 7(b) deals with promotions for bingo games and this will allow operators to either offer promotional gifts up to eight times a year or instead of that they could give the player a coupon that the player could then use to redeem at a later time for a larger prize. Item 7(c) is a record keeping rule for bingo and would allow an organization to charge a per session fee instead of a per card or per ticket fee. And the effect of this is that it will decrease the amount of paperwork for nonprofit organizations and decrease the amount of time spent on accounting for the tickets. Again, it is just up for discussion; no vote is needed, but she would be glad to answer questions.

Commissioner Herbold said under Item 7(b) on page 2 there's some additional language that appears to set forth a formula that the licensee can use in creating the points or credit. She wondered why it would be their concern how players can build up these points and credits. She wondered why the Commission sets forth the formula as to how they need to do that. She thought that might need to be an individual kind of decision. **Ms. Winslow** said this was the language that was taken from a former rule. She said it was her understanding that that was originally developed as a limitation on the number of giveaways that can be allowed for a charitable nonprofit organizations. **Chairperson McLaughlin** asked if the idea was to prevent giving one the advantage over the other. **Ms. Winslow** said it wasn't just that; it was diluting the profits of the organization for giveaway programs.

Commissioner Herbold said she interpreted that to mean that, by having one half of one percent of the total dollar amount or \$3.00 per occasion, that restricts the ability of players to build up a lot of points or credits, thereby the nonprofit will not be in a position to give away too much. **Ms. Winslow** said that was correct.

Commissioner Herbold said it seemed to her that with the compliance numbers that they already impose on them, another 60 percent and however much to program services and supporting services, that that's already built in that they would have to determine how much they can give away and still be in compliance. **Ms. Winslow** said she was making a very valid point and she thought that was taken into consideration in the language when it was originally drafted. She said she knew that it had been worked out with the industry. There are competitive factors when one organization makes an offer and the other one is compelled to offer something better. She said she wasn't involved with the original drafting of the rule.

Director Bishop said that initially the licensees themselves asked for the limitation to keep their competitors from over-promoting. He said he tended to agree with Commissioner Herbold. **Chairperson McLaughlin** opened the meeting for public comment.

Commissioner Herbold said that maybe she should make a motion to delete that section in order to inspire some comments from the non profits. **Chairperson McLaughlin** asked Commissioner Herbold if she wanted to delete that section. **Commissioner Herbold** made a motion that the section be deleted. **Commissioner Ludwig** seconded the motion. **Chairperson McLaughlin** said they had a motion and a second and called for discussion.

Ric Newgard, Seattle Junior Hockey, said the industry asked for the limitation because a number of the WCCGA members compete with tribal operations who offer play points, so they felt that they needed to offer the player points likewise to stay competitive. Some of them who don't compete with the tribes won't pay the undue expense to attract more customers, so they didn't want to be strict. They found a happy medium. They didn't want to see some games go under.

Commissioner Herbold asked about her previous point that the other rules have built-in compliance formulas that they must abide by. She wondered if that eventually would curtail what they can do by way of giveaways. **Mr. Newgard** said it should, but his reason for speaking is to explain the compromise.

Don Kaufman said that, for a long time, they weren't able to give the customers anything extra. Then they were allowed to give them up to four or five \$2.00 prizes, and now it is six or eight times a year that they can give a \$3.00 prize. They kept this rule consistent with that rule so that they didn't exceed the eight previous that they can do in a year now. That's worked well for the industry if it's controlled. For some operations, the lack of ability to control themselves sometimes gets themselves in trouble and yet it's something they must do. The part of the rule that's drafted to parallel the giveaway rules they have for promotion.

Commissioner Herbold said it is her opinion that it is not the Commission's responsibility to control those who can't control themselves or get themselves into a bind because they give away too much. **Mr. Kaufman** said he understood what she was saying, but for somebody who is in a real good position financially to be able to bury some smaller competitive dealer that could open the door for that possibility could happen and is unfair.

Commissioner Herbold said she also doesn't think it is the Commission's role as a regulatory agency to deal with the market forces of competition. **Mr. Kaufman** said that, in the nonprofit arena, he would disagree because he thought the end of nonprofit gaming is to produce an end result – an income for the charitable purposes of that organization. **Commissioner Herbold** said she appreciated the good that they do; she just believes that competition is a market force that she thought the Commission should not be involved and the other commissioners may disagree with that.

Joe Wozniak, Big Brothers of King County, said there was another area where this comes in and it has to do with rules established for new games. He recalled that a new game is exempted from net income and profits for the first year or so. This would allow that game if there were no limitations to allow the new game then to do whatever they want as far as prizes are concerned to buy the marketplace. So, when a rule is established to allow somebody an exemption from all the rules for income during that first-year period if there wasn't a limitation like this, they could go wild with what they're doing to buy players could go on for a year or two-year period. So when there is a rule that allows somebody an exemption, then it has to be monitored to see how it should be limited in other areas when something else is allowed to be done.

Director Bishop said that, these rules were created by the task force and first put into place to help the charities expand and to fund their programs. Since that time, the staff has come up with a new system on the net income, net return requirements that is working much better than traditionally. There has always been a reluctance to tightly enforce the net income requirement because the organization says, "If you just give me a little bit more time," or, "gee, I am giving \$100,000 of my charity up just because I'm supposed to get \$200 doesn't mean I should be shut down." Over the last three years the agency has evolved a system that seems to be working quite well now. Some of the fears of the licensees being able to come in and buy customers away from other games by true promotion may be not as founded as they would have been at the time the rule was first adopted.

Chairperson McLaughlin asked about what the last speaker said about the new games being exempt from the net income. **Director Bishop** said that he did not recall that they were exempt in total – they have certain different restrictions. He said he thought they were allowed to make 2 percent less during the first year than they would be in the second year. He said he is not recall a total exemption.

Commissioner Forrest said he thought there was a difference between nonprofits and charitable operations. These organizations must work with volunteers who donate their services, which often benefit children. He didn't think they had to bow down to "market forces" 100 percent. He said the health of the charitables and nonprofit corporations is a justifiable concern of the Commission. He thought that regulations in that field which might be

inappropriate in a strictly commercial field are in order. If the industry is working, it was his inclination to make an effort to change it. He said it was not very clear to him that they would be interfering with some "market force"

Commissioner Herbold said she had accomplished her goal by inspiring conversation about the topic and in the process learning about nonprofits and wanted to withdraw her motion asked if Mr. Ludwig wanted to withdraw his second. **Commissioner Ludwig** agreed to withdraw his second.

Chairperson McLaughlin called for further discussion. She said the rule was up for discussion and they would be up for final adoption in August.

SALE OF BINGO PAPER ON CREDIT

Ms. Patjens said there was a rule package that was passed in 1997 and became effective in '98 and those rules applied to all gambling equipment which included bingo paper. After the rule was passed, the staff received some comments from distributors and operators who had some concerns because, traditionally, nonprofit organizations have been able to purchase bingo paper and supplies on credit. So, under the proposed rules, this would allow nonprofits to purchase bingo paper and supplied on credit, but only up to 30 days. Staff recommends for filing for further discussion.

Chairperson McLaughlin thought this was making a practice that is occurring now legal. **Ms. Patjens** said it was making a practice that has been in place and was legal but became illegal under the new rules now legal under the new rules. **Commissioner Ludwig** moved to file the proposed rule WAC 230-12-340. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

LOCATION OF BINGO GAMES

Ms. Patjens said that, at the last Commission meeting, Commissioner Forrest had requested that a rule be placed on the agenda to begin generating discussion on allowing non profit organizations going together to conduct bingo. The Bingo Task Force was created in 1994 and one of its conclusions was that it would be helpful if non-profits could go in together to conduct bingo. In 1996, the Assistant Attorney General was asked to provide an opinion on whether this could be done by Commission rule as opposed to a legislative change. The Commission was encouraged to look into this by several legislators.

Chairperson McLaughlin asked if this were the satellite bingo issue. **Ms. Patjens** said yes that it was. She said that Mr. McCoy had concluded in 1996 – and she believed it was still his conclusion – that it would be possible for the Commission to do this. It would require that a lot of rules be changed and one of those rules that would be changed is defining where a bingo game is conducted. She said that the rule before them states that a bingo game would be deemed to be conducted at the premises for and again this would only be one rule that would be changed, but staff brought this one before them to generate that discussion.

Commissioner Forrest thanked the staff for beginning this process. He said it seemed to him and that he thought there was a general feeling among the commissioners that they wanted to be supportive of the charitable non profit operations. He said he was impressed by the number of legislators who were willing to sign their support even though they had failed to achieve their goal of enacting the bill in the legislative process. He said he had spoken with Mr. McCoy and that he understood that this rule would now be filed. **Mr. McCoy** affirmed that this was correct.

Commissioner Forrest said that it would be part of an ultimate package that would be necessary. It seemed that they could reasonably anticipate a rule that would permit this activity and would be consistent with the existing legislation and that this would be kind of a first step. He thought that if this were true, it would be a positive step forward and he was pleased that the Legislature was supportive. He said he thought that they owed them at least the courtesy of examining this to see if the Commission could do that. Now he was encouraged by what was happening. He said extensive discussion of the merits of the package, but he would certainly move at this time that they file this rule and see if there were any public reaction and he assumed they would get some

support from the industry as they move along. He would appreciate the staff very promptly draft something now consistent with Commission rules.

Commissioner Forrest moved to file the rule and see what kind of feedback the Commission gets from the nonprofit industry. **Commissioner Herbold** seconded the motion.

Vote taken; motion carried with five aye votes.

Chairperson McLaughlin asked the staff to think about a question she had – and then answer her later. She asked why it was that the Commission only allows bingo games three times a week at a location. She wondered why two different bingo games couldn't share the same location and only have three days a week. That would bring the cost down and they'd be able to donate more to the community. **Mr. McCoy** said that's the law; it's in the RCW. **Director Bishop** said it's the same law that didn't get passed the last time. Every time this law has come up the people who have killed it in the past have been the charities themselves.

John Beadle, Executive Director, Seattle Junior Hockey Association, asked if he could respond to her question. He said this bill has been before the Legislature over the past eight years. They do agree it would reduce costs for sharing a facility, but they oppose it because it increases the amount of licensees increase by a minimum of 25 percent and they would be putting more people out there that they'd be competing against in their same locality. For example, in Seattle Junior Hockey and a competitor are only one block apart. Now, under the current restriction, they're not competing against each other. If they took another licensee and put it in their building; they're a block apart going head-to-head, so the reduction of the expenses would be far worse if they were to do that. He said he personally believed that the real answer was, and he pointed out that this was only from an individual, either being just on a level playing field is keeping it the way it is.

Commissioner Forrest said, in light of the letter, he would like the staff to write to each legislator for the Commission to sign and say that they are initiating a proceeding. **Director Bishop** said the staff would take care of that. He said he had spoken to Ms. Winslow regarding this matter and that a subcommittee of the task force that was working on this project before and he had asked her to see if they could get them together to work with staff to help draft the rest of this rule package.

LICENSE FEES

Director Bishop said he was sorry that there were not enough charts for everyone in the audience to have copies. He said that last month, the staff was asked to research the possibility of rebates for license fees paid because of the situation of the Commission's fund balance being above the three-month level. The attorney general advised the staff that a rebate is not appropriate under state law. That left only the option of repealing the fee increase that went into effect June 30, 1998, or other options. His personal recommendation was to try to adjust in the future rather than to move backward because of the complexity of doing that and the cost involved.

Director Bishop referred to one of the charts that did not have the dash lines on it. At the point in time that he was talking to the commissioners last month, that was their situation or their projections. From that it could be seen that, based on the projections they had for a budget as well as the revenue that they would have crossed their three month line at the end of the 00 year and from there, would have been operating well below that into the next year. With I-601 requirements then could never build back up from that point. So, for him it was a very dangerous point to say it's a possibility.

Director Bishop said that, as far as the budget presentation, he referred to the last page of the handout where it showed after they had adjusted the budget for the director's discretionary portion of the budget, the lines changed considerably. Because of constant staff turnover, there would probably always be vacancies. Based on that assumption, the second chart in the handout shows what would happen to the revenue if they repealed the increase that went into effect June 30. He said, however, that they could afford that and that there would be no impact for at least five years if they were to do so. The down side of doing so was the fact that it would be expensive to go back to recover purely because they would have had to collect the fees for about a five-month period before they would be able to recommend these fee scales.

Director Bishop said he has been advised by Mr. McCoy that this could not be filed as an emergency because of the mere fact that it would impact someone's pocketbook is not an emergency under state law. So what would have to happen is to file it, go through the discussion period, pass it, and go back and rebate or refund those people that paid between the effective date and the effective date of the rule. The handout would do that. He said the other options he discussed at the last meeting were that they have other means of adjusting although they would not be as fast as this. There is a schedule fee increase scheduled for the first of January, 1999, and that will be coming forward for discussion in September on the agenda. If finances look as well as they do now, he would recommend at that time that they do not implement that fee increase. That would help the licensees, but it would not give them immediate help.

Chairperson McLaughlin said that if this rule were adopted, it would allow the Commission to give money back that some people had paid. **Director Bishop** said it would be a refund and not a rebate; a refund is a fact that is correcting an error. A rebate is an actual gift. He said that anything that is done to keep the base down does impact I-601. He said that by looking at it and using conservative management practices, he thought that they would be able to operate efficiently by doing so. He said they would also be doing the same thing by deferring the next fee increase.

Commissioner Forrest said, if he were an operator, he would rather get his money now than pay less in the future, but having said that, in the nature of things, exact predictions cannot be made for the WSGC or any other agency that has this type of revenue coming in. He wondered how many months they were talking about. If the increases were not implemented in January, and he was a little inclined to do it that way, how long would it be before it they would get back to where they were. For example, would six months of not implementing any increases take care of this difference? **Director Bishop** said it would, but at a later date. Barring other differences what would happen is that they would not have a fee increase effective the first of January. The unfortunate part of that is that sometimes it tended to impact different licensees because of when their license expired and when their new fees would come due. **Commissioner Ludwig** said that it occurred to him that, just by filing this, they would preserve their options. **Director Bishop** said if they filed it, it would start the process and they could then implement it. **Commissioner Ludwig** asked if he were correct that if by filing it it would not lock them into anything. **Director Bishop** said that was correct, but it would start the clock running so they could act on it if they wanted to. **Commissioner Ludwig** said that for that reason he would be in favor of filing it to keep options open.

Director Bishop said that if they elected to do that, he would want to go back and revisit the first rules because there are some drafting problems. He said that to process a refund would cost them about \$20 and that was the reason they put those exceeding \$20. He said that if they went back and looked at it, there were lots of licenses the very low level that there would be no refund. He said that in this situation although prudently as a manager he would not suggest that they write a check that was going to cost them money. He said that in fairness they should probably give it to everyone.

Commissioner Ludwig moved to file the proposed rule 9(a), 9(b), and 9(c) for further discussion.
Commissioner Forrest seconded the motion.

Vote taken; motion carried with five aye votes.

COMMENTS FROM THE PUBLIC OR PUBLIC OFFICIALS

Chairperson McLaughlin asked if there were any comments or general discussion from the audience.

Commissioner Forrest said he has some brief comments to make. He said it seemed to him that the card rooms and gambling businesses had a tradition of a kind of a one-man small American business in this state. In the short time he's been on the Commission, the scale of this has greatly increased due to legislative action and there are now some pretty substantial establishments now with more certain to come in the future. The concept of running a pilot program prior to adoption of final rule for card rooms was very healthy. The question the Commission needs to address is how the Commission sees the future of this industry development.

Commissioner Forrest said he would like to see the new card rooms as localized businesses run by a comparatively small group of people. He said he did not want to see a radical change of card room business across the state. He encouraged the staff, and in particular Director Bishop, to limit participation in the pilot program to one establishment, one location, regardless of ownership or anything else and, secondly, he would like to encourage the staff to give some thought when the final rules are being formulated to implement that general concept of localized, family restaurant business rather than like the McDonald's restaurant chain. He said that it would be healthier for a lot of reasons for this. He strongly urges the staff as a matter of discretion and Director Bishop to limit participation in the pilot program so people's expectations don't grow into having several establishments located in various areas in the state.

Chairperson McLaughlin asked if he means that, during the pilot program phase, that the Commission should limit an owner of an establishment to one facility. She wondered if the Commission could do that on a permanent basis or if that would have to be a legislative change. **Mr. McCoy** said that there are two different questions involved. The first is qualification for a license and the second is limiting the number of licensees. The purpose of the pilot program is to do a shakeout and the statute that addresses this specifically allows an agency to create rules that are sufficient to ensure that the public interest is protected. Within that scope, limiting the amount of participation in the pilot program is to make sure there's a shakeout during the process before making permanent rules.

Mr. McCoy said the second question is whether there's a legislative limitation that would prevent the Gambling Commission from limiting the number of licenses. The question is really not the number of licenses, per se, as it is qualification for he thought it was within the purview of the Commission to say that a qualification for a license would be that they not be conducted in more than one location because that goes to the question of whether it's regulated or not. He said he would not make a judgment as to whether or not that's what the Commission ought to do, but he thought that was a different question because the Gambling Commission may not limit it for the purpose of keeping the number of licensees down. But he did not think it precluded the Gambling Commission from having a rule saying they could not have multiple locations.

Ms. Winslow asked for clarification. At the present time, there are organizations that are participating in the enhancement program at multiple locations with one owner, but they do not have anyone participating in the enhancement program that's more than a house-banked establishment. She said that if that's the direction the Gambling Commission wants to go, it should be made clear on the record.

Commissioner Forrest said that makes sense to him, but he's looking for the staff's and Mr. McCoy's comments regarding his suggestion. He said he doesn't want to see this program turn into a gambling monster that gobbles up all the traditional individually-owned, small, family-run businesses that he believes in. He said at least they should think it over and if they were going to allow the McDonald's-type operation, they should do it with knowledge of what they are doing and not fall into this accidentally. He said he didn't want to preempt the Legislature in anyway, but he did think they would all be sad if they woke up and found they had two or three chain operations dominating the card room and house-banked card rooms in the state of Washington.

Commissioner Ludwig said he is sympathetic to Commissioner Forrest's concerns; however, there ought to be some limitation rather than letting somebody go out and get multiple licenses and locations during a pilot program, and this should be the case for all pilot programs. He suggested that Commissioner Forrest put his concerns in the form of a motion so that it is clear, assuming it passes, that this is the Commission's position. He said a motion would also be beneficial for Director Bishop and the staff.

Senator Prentice said, in reviewing this in her own mind, she remembers the demonstrations to the Legislature and the pleas from folks in the industry who wanted house banked games was that allowing this wasn't going to be that big a deal, but it turned out to be quite a big deal. She thought that, in terms of what the legislators believe, the legislative intent was and how it's turning out are two vastly different things. She supports the concept and now they need to get to the details. They thought they were merely helping folks who were operating in the margins and they never envisioned 100 flowers blooming suddenly.

Chairperson McLaughlin said her concern was the fact that there could be individuals who were not being regulated, such as the man in the back of a card room acting as the "money man." Under those rules, the

Commission couldn't regulate him and she didn't think that was right. They could be in the parking lot or anywhere giving signals to somebody else and there was no way they could regulate that kind of thing. She said she never imagined the new test rules would result in what has occurred. **Mr. McCoy** clarified that the specific rules for the pilot program say that anyone presently engaged in the pilot program is allowed to continue until the end of the pilot period. It's not exactly a "grandfather" situation, but it would restrict the Commission from taking them out of the program for only that reason. **Commissioner Ludwig** said he wouldn't suggest that anybody be taken out anyway. **Mr. McCoy** said he was just trying to clarify the matter in case there were concerns. He said that if they're already in the program, they can change the program for anybody who is not yet in it. But anybody who is actually in the program would be essentially grandfathered in for the term of the pilot program only.

Commissioner Ludwig said he wants to go one step further and say that, if someone has a license and then sells their business, they should not be allowed to get another one in the pilot program. **Ms. Winslow** said the licenses are considered to be a separate item to the program. She said she wanted to get clarification from Mr. McCoy as to what constitutes being in the program. She asked if he was talking about having an approved contract with the Commission, or about somebody from the list of those waiting to participate in the house banked test. She said the multiple-location individuals who are requesting to be involved in the house banked program are on a list and that's where she understood the concern to be with the house banked organizations. **Mr. McCoy** answered that, under the terms of the Administrative Procedures Act that allow the pilot program to take place, it would be left up to those who already have the contracts. Because they've already gotten a contract, they're essentially looked at in terms of operating under test rules, but he doesn't believe that applies to anyone on the waiting list.

Senator Schow said his concern is that this not go so fast and make it so complicated that regulating and keeping it going becomes too difficult for the staff. By limiting it to one location per licensee until any potential regulatory concerns can be sorted out before permanent rules are written.

Chairperson McLaughlin asked for clarification on what Commissioner Forrest is talking about. **Commissioner Forrest** said he wants the staff to start thinking about this in terms of the pilot program. The staff can think about this and hopefully it can be on the agenda for the next Commission meeting. His main concern was that the staff begin thinking about formative rules that will prevent chain operation card rooms. **Chairperson McLaughlin** asked if the Commission doesn't make a motion to instruct the staff, would there be a 30-day window for someone to quickly buy another establishment. **Commissioner Ludwig** said he thought they could do that at any time. **Mr. McCoy** said the WSGC is not obligated to take any more participants into the pilot program. The way the pilot program is set up right now is with a contract – each party signs the contract. There's a provision in the contract that the WSGC may modify the terms as part of the shakeout in order to see what is necessary from a regulatory standpoint. **Chairperson McLaughlin** said she is talking about someone who already has a contract going out and buying another establishment. **Mr. McCoy** said yes, they can buy another establishment, but they can't get that additional establishment into the program in the next 30 days. **Ms. Winslow** said there are several on the waiting list and a couple who have second establishments on the waiting list.

Commissioner Ludwig said that is why he suggested that the people who now have a contract for house banked card rooms under the pilot program be limited. He wanted to be sure that if a licensee has one establishment already in the pilot program under contract and they sell that establishment, they can't buy a new establishment and expect to get into this pilot program. He suggested doing this by motion.

Chairperson McLaughlin said that, since the WSGC is a public agency and must take public comments, this change would have to be done by motion so the public could comment. **Senator Schow** said that he thought someone could make a motion today. **Mr. McCoy** said it was not technically a modification of the rule because this is a pilot program, a test. It's up to the Commission itself as to the instruction they would give the staff. It's not a formal modification of the program itself.

Commissioner Forrest asked if it would be wise to get some general proposed rule and present it next time for filing. The y would not purport to be the whole thing, but to alert the world that the Commission is considering this when they implement the program. If the motion is made, then they could take public comments. He wants to limit "chain operation" card rooms.

Commissioner Ludwig moved that the Commission advise the staff that, during the time the card room enhancement program and the house banked card room pilot program that the Commission not permit any person to have more than one license or location or contract during the pilot program, or an interest in any other entity or corporation that has such a location, license, or contract; and further, that if a person has a contract or license and sells it, that they don't have the opportunity to apply to participate in the house banked card games portion of the pilot program . **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

PUBLIC COMMENTS

Mary Ann Branson Williams, of Spokane, told the commissioners about many concerns she had regarding gambling and many other concerns about issues that have arisen over the past 50 years in the state of Washington. She had a prepared statement, which she read from and said she would provide a copy of it to the staff. She asked that the Commission discuss her concerns.

ADJOURNMENT

Minutes submitted for Commission approval,

Susan D. Green
Executive Assistant